

Exhibit A to Comments of Duke Energy Gas Transmission Corporation et al. on Proposed Rules

980 CMR 17.00: ENERGY FACILITIES SITING BOARD PARTICIPATION IN FEDERAL ENERGY REGULATORY COMMISSION PROCEEDINGS ADDRESSING NATURAL GAS PROJECTS IN MASSACHUSETTS

Section

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17.01: Purpose and Scope

(1) **Purpose.** 980 CMR § 17.00 sets forth: (1) the obligations of a person seeking approval from the Federal Energy Regulatory Commission to construct, expand, modify, or replace natural gas pipelines, natural gas manufacturing facilities, natural gas storage facilities, or natural gas importation facilities in Massachusetts, and (2) the procedures used by the Energy Facilities Siting Board to participate in the Federal Energy Regulatory Commission's review of any natural Gas Project. This chapter supersedes 980 CMR § 7.07(9).

(2) **Scope.** This chapter applies whenever a person or persons makes an application to the Federal Energy Regulatory Commission seeking approval to construct, expand, modify, or replace a Gas Project in Massachusetts, or initiates a collaborative approach preparatory to making such an application. The applications covered by this regulation include, but are not limited to: an application for a § 7(c) Certificate of Public Convenience and Necessity, an application under § 3 of the Natural Gas Act, and an application under § 311 of the Natural Gas Policy Act of 1978.

(3) **Waiver of Rules.** Where good cause appears, not contrary to statute, the Board or the Presiding Officer may Permit deviation from any rules contained in 980 CMR §§ 17.00 et seq.

17.02: Definitions

For the purposes of 980 CMR §§ 17.00, the definitions set forth in 980 CMR § 1.03 shall apply unless the context or subject matter requires a different interpretation. The following definitions also shall apply to this section:

FERC means the Federal Energy Regulatory Commission.

FERC Application means an application or petition filed with FERC seeking to construct, expand, or replace a Gas Project, or seeking an exemption from FERC with respect to such a Gas Project.

Gas means natural gas or any direct substitute. Gas includes natural gas, propane air, synthetic natural gas, and liquified natural gas.

Gas Project means the construction, expansion, modification, or replacement of a gas pipeline, gas manufacturing facility, gas storage facility, or gas importation facility, and associated facilities located or proposed to be located in the Commonwealth of Massachusetts.

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Protest means an objection to any application, complaint, petition, or order to show cause, filed with the Federal Energy Regulatory Commission pursuant to 18 C.F.R. § 157.10(a)(4).

Section 7(c) Blanket Certificate means a certificate issued by the Federal Energy Regulatory Commission authorizing certain construction and operation of facilities and certain certificate amendments and abandonment under § 7(c) of the Natural Gas Act, codified as 15 U.S.C. §§ 717 *et seq.*, and pursuant to 18 C.F.R. §§ 157.201 *et seq.*

Section 7(c) CPCN means a Certificate of Public Convenience and Necessity issued by the Federal Energy Regulatory Commission authorizing certain acts or operations concerning the regulation, sale, or transportation of natural gas in interstate commerce under § 7(c) of the Natural Gas Act, codified as 15 U.S.C. § 717f(c), and pursuant to 18 C.F.R. §§ 157.1 *et seq.*

Staff means Staff of the Energy Facilities Siting Board.

17.03: Notice of Application filed with the Federal Energy Regulatory Commission.

(1) Notice to Board. Any person seeking approval from FERC to construct, expand, modify, or replace a Gas Project shall file a copy of its FERC Application with the Board at its offices in Boston no later than seven (7) days after such application is filed with FERC. This filing shall be accompanied by a cover letter that identifies: (1) the site or general route of the Gas Project, and (2) the municipalities in Massachusetts in which the construction, expansion, modification, or replacement of the Gas Project would take place.

(2) Notice to Other Agencies. Upon receipt of a FERC Application, the Board shall notify relevant state environmental agencies of the filing. Such agencies may include the Department of Environmental Protection, the Massachusetts Office of Coastal Zone Management, the Massachusetts Environmental Policy Act Unit, the Division of Fisheries and Wildlife, the Department of Environmental Management, and the Massachusetts Historical Commission.

17.04: Board Participation in § 7(c) CPCN Proceedings

(1) Determination of Interest. Upon receipt of a copy of an application to FERC for a § 7(c) CPCN, Staff shall evaluate the filing to determine whether intervention or other action in the FERC proceeding is warranted. Staff shall seek to intervene on behalf of the Board in any proceeding regarding a Gas Project that meets the definition of "facility" set forth in G. L. c. 164, § 69G, and may intervene, at its discretion, in other § 7(c) CPCN proceedings.

(2) Public Hearing and Site Visit. If Staff intervenes in a proceeding, Staff members shall view the site or route of the Gas Project and shall hold a public informational hearing in one or more municipalities in which the Gas Project would be located. The project developer shall attend each public informational hearing to address questions concerning the natural Gas Project. Notice of each public informational hearing shall be given to the public, to relevant local officials, and to state environmental agencies at least 21 days in advance in a practical manner to be specified by the Presiding Officer. If practical, notice of each public informational hearing also shall be placed in the *Environmental Monitor* published by the Massachusetts Executive Office of Environmental

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Affairs. Unless otherwise directed, the project developer shall be responsible for all reasonable costs related to the publication and distribution of notice. At its discretion, Staff may conduct public informational hearings jointly with FERC or with any relevant state environmental agency. At its discretion, Staff also may request written public comment on the potential impacts of the Gas Project.

(3) Comments. After conducting the public informational hearing, Staff shall provide comments to FERC on environmental, land use, and community issues associated with the Gas Project. Staff shall monitor the FERC proceeding and may file further comments or otherwise participate in the FERC proceeding as appropriate.

17.05: Board Participation in § 7(c) Blanket Certificate Proceedings.

(1) Project Evaluation. Any person filing a Request for Authorization to construct modify, expand or replace a Gas Project pursuant to 18 CFR § 157.205 shall file with the Board a copy of such Request within two (2) business days of the date that such request is filed with FERC. Upon receiving such a Request for Authorization to construct, modify, expand, or replace a Gas Project pursuant to 18 CFR § 157.205, the Staff shall promptly evaluate the Request to determine the location and any potential environmental, land use, and community issues associated with the construction and operation of the Gas Project. As part of its review, Staff may visit the site or route of a Gas Project.

(2) Protest. The Staff and the Board shall comply with 18 CFR § 157.205 and related FERC regulations in filing any Protest on behalf of the Board in connection with any Gas Project with respect to which the Board receives a Request for Authorization under (1) above.

17.06: Board Participation in FERC Proceedings.

(1) Notice of Collaborative Approach or Pre-filing Process. Any person initiating a collaborative approach, pursuant to 18 C.F.R. § 157.22, or pre-filing process preparatory to making an application to FERC to construct a Gas Project in Massachusetts shall notify the Siting Board of its request to FERC to use the collaborative approach or pre-filing process within seven days after it makes such request, and shall include the Siting Board in the collaborative approach or pre-filing process as an interested entity.

(2) Notice of Petition for Exemption from Regulation. Any person filing an application with FERC pursuant to 18 C.F.R. §§ 152.1 (a) *et seq.* for exemption from the provisions of the Natural Gas Act, codified as 15 U.S.C. § 717, *et seq.*, and the rules and regulations issued pursuant thereto, shall notify the Siting Board of its application within seven days of its filing with FERC.

(3) Participation. The Board or Staff may participate in any FERC proceeding or in a collaborative approach, as an intervenor or through any other appropriate means, consistent with FERC regulations.

REGULATORY AUTHORITY

M.G.L. c. 164, § 69H.

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